

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NASHAILY ORTIZ, individually, and on  
behalf of all others similarly situated, et al.

Plaintiffs,

-against-

CONSOLIDATED EDISON COMPANY OF  
NEW YORK, INC., et al.,

Defendants.

No. 1:22-cv-08957 (JLR) (GS)

**ORDER**

JENNIFER L. ROCHON, United States District Judge:

Plaintiffs bring this action against Defendants for violations of the Fair Labor Standards Act (“FLSA”), and the New York Labor Law (“NYLL”), or, in the alternative, the Freelance Isn’t Free Act (“FIFA”), in addition to common-law claims for failure to pay prevailing wages. ECF No. 72. Before the Court is the report and recommendation of Magistrate Judge Gary Stein dated June 7, 2024. ECF No. 202 (the “Report and Recommendation” or “R&R”). Under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties had fourteen days from the service of the Report and Recommendation to file written objections. That time has expired, and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error. *See Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009) (noting that, with respect to “uncontested portions of a report and recommendation, a district court need only satisfy itself that there is no clear error on the face of the record”). “A decision is ‘clearly erroneous’ when the reviewing Court is left with the definite and firm conviction that a mistake has been committed.” *Royal Park Invs. SA/NV v. Deutsche Bank Nat’l Tr. Co.*, No. 14-cv-04394 (AJN), 2018 WLL 1750595, at \*21

(S.D.N.Y. Apr. 11, 2018). Having reviewed Judge Stein's report, the Courts finds it to be not only free from clear error, but comprehensive and well-reasoned. Therefore, the Court adopts the Report and Recommendation of Judge Stein in its entirety, including Judge Stein's recommendation that Plaintiffs be granted leave to amend the complaint.


The Court is also in receipt of Plaintiffs' letter motion at ECF No. 203, requesting that if the Court grants Plaintiffs leave to amend, that Plaintiffs be given 30 days to file their second amended complaint. Defendants do not oppose Plaintiffs' request so long as they are given 30 days to answer or otherwise respond to the second amended complaint. ECF No. 204. The Court grants the requested relief. Plaintiffs shall file their second amended complaint within 30 days from the date of this Order, and Defendants shall respond to the second amended complaint no later than 30 days after the filing of the second amended complaint.

Finally, because Plaintiffs will file a second amended complaint, the motion for conditional certification of a collective action is denied as moot, without prejudice to refile the motion no later than 60 days from the filing of the second amended complaint.

The Clerk of Court is respectfully directed to close the motions pending at ECF Nos. 100, 104, 153, and 203.

Dated: June 24, 2024  
New York, New York

SO ORDERED.

  
JENNIFER L. ROCHON  
United States District Judge